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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,198	08/06/2003	Rolf Harjung	US 20 02 1052-2	8328

7590 11/01/2007  
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EXAMINER
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ORTIZ RODRIGUEZ, CARLOS R

ART UNIT	PAPER NUMBER
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2125

MAIL DATE	DELIVERY MODE
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11/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

10/635,198

### Applicant(s)

HARJUNG, ROLF

### Examiner

Carlos Ortiz-Rodriguez

### Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,13,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,6-11 and 13 is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 08/06/07 have been fully considered. It should be noted that Applicant's amendment to Fig. 7 as stated in Applicant's Arguments filed 08/06/07 was not received.
2. The rejections under 35 U.S.C. 112 have been withdrawn.
3. Regarding claim 13, the rejection under 35 U.S.C. 101 has been withdrawn.
4. Regarding claim 15, the arguments regarding "the receiver" in the forth paragraph of page 8 of said Applicants arguments is not persuasive. Applicants indicate that the "time domain reflection oscilloscope" can be considered as "the receiver" as specified in claim 15. The Examiner disagrees.

It should be noted that the reason why claim 15 is rejected under 35 U.S.C. 101 is because when interpreting the claim language, the "receiver" and the "modeling unit" are considered software per se. As a result of this interpretation the claimed system is considered software per se. This interpretation is possible because Claim 15 does not specifically state that the receiver receives as input the measured electrical signal of the electronic device. Instead, it states that the receiver receives the measured electrical signal response that represents an electrical behavior of the electronic device. The Examiner believes that the receiver could reasonably be interpreted as part of a SPICE simulator, and considered as software per se.

However, claim 16 fulfills the requirement of 35 U.S.C. 101 because it is clear from the disclosure of the Specifications that the “measuring unit” is the “time domain reflection oscilloscope”. The Specification state: “Fig. 7 shows how the four step responses of a 2-port network can be measured using a time-domain reflection (TDR) oscilloscope.”

### ***Claim Objections***

5. Claim 16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. It should be noted that claim 15 (the base claim upon which claim 16 depends) is rejected under 35 U.S.C. 101, as indicated above. If claim 16 is rewritten in independent form including all of the limitations of the base claim and any intervening claims, then claim 16 will comply with 35 U.S.C. 101 because it is clear from the disclosure of the Specifications that the “measuring unit” is the “time domain reflection oscilloscope”.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 15 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim language is directed towards software per se. The preamble of the claim provides for a system, however this system is considered software per se.

***Allowable Subject Matter***

8. Claims 1-3, 6-11 and 13 are allowed.

**Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

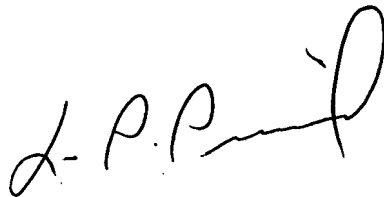
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Ortiz-Rodriguez whose telephone number is 571-272-3766.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/635,198

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'C. Ortiz-Rodriguez', with a large, stylized loop at the end.

Carlos Ortiz-Rodriguez  
Patent Examiner  
Art Unit 2125

October 29, 2007

**LEO PICARD**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**